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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,971	06/26/2006	Yoshihiko Iimura	127548	9935
25944 7590 03/04/2009 OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				
EXAMINER				
ROGERS, MARTIN K				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
03/04/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/573,971

**Applicant(s)**

IMURA ET AL.

**Examiner**

MARTIN ROGERS

**Art Unit**

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date 6/26/2006

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because they have not been labeled with proper figure numbers. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugano et al. (Japanese Publication 59-201824).

In regards to claim 1, Sugano et al. teach a method for thermal crystallization of a preform neck ("crystallize a bottle mouth", See the English language abstract) characterized in that the thermal crystallization is carried out under the condition that a jig of an inverted support ("polyester resin in an inverted state" Sugano Abstract) type is loaded with a synthetic resin perform for use in a biaxial drawing and blow molding process ("blow molding" Sugano Abstract), wherein said inverted perform is installed on said jig (Figures 1 and 2) so that a gap is formed under the top surface of the neck of said perform (Figures 1 and 2: See space between perform and the base of mandrel 4).

In regards to claim 2, Sugano et al. further teach that the gap is formed under the top surface of the neck of said preform by utilizing a jig having an upright support unit (Figures 1 and 2: Mandrel 4) and by inserting said support unit into the preform along the central axis to the limit of insertion determined previously by the contact of a portion of the support unit with a certain inner wall portion of the perform (Figures 1 and 2: See contact at point 3 in figure 1 and point 13 in figure 2) so that the inverted preform can be fitted to the jig.

In regards to claim 3, Sugano et al. further teach that an end portion of the support unit comes in direct contact peripherally with a prescribed zone of the inner wall of the body of the preform (Figure 1: 3).

In regards to claim 4, Sugano et al. further teach that the support unit is allowed to come into direct contact peripherally with a prescribed zone of the inner wall of the body of the preform (Figures 1 and 2: The mandrel 4 is in contact with the inner circumference of the neck of the preform).

In regards to claim 5, Sugano et al. further teach using a support unit having a tapered support portion that narrows at a given height toward the top end and allowing said tapered support portion to come in direct contact peripherally with the inner wall of a tapered portion of the body of the preform, said tapered body portion being disposed in the upper area of the body and becoming narrow partly toward the bottom (Figure 2: 13).

In regards to claim 6, Sugano et al. further teach that the jig has a bore control device, and that this bore control device is used as the support unit by fitting the device into the neck in direct contact with the inner neck wall (Figure 2: 13).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugano et al. (Japanese Publication H59-201824) as applied to claims 1-6 above and further in view of Belcher (USP 4992230).

Claims 7-12 require the preform to be made of a resin of the polyethylene terephthalate series. Sugano et al. teach that the perform is made of polyester ("polyester" Sugano Abstract) but do not teach that the perform is made of a resin of the polyethylene terephthalate series.

In the same field of endeavor, Belcher discloses that the polyester be a resin of the polyethylene terephthalate series for the benefit of being able to use it to create transparent "beverage and food" containers" (Blecher Column 1, lines 16-17).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the process treating a preform made out of a polyester as taught by Sugano et al. with the step of the selecting that the polyester by PET as taught by Belcher for the benefit of being able to later blow mold the perform into a container that is safe for holding a food or beverage (Belcher Column 1, lines 16-17).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARTIN ROGERS whose telephone number is 571-270-7002. The examiner can normally be reached on Monday through Thursday, 7:30 to 5:00, and every other Friday, 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MR

/Richard Crispino/  
Supervisory Patent Examiner, Art Unit 1791